

THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NORTH CAROLINA

FILED

DEC 19 2012

JULIE A. RICHARDS, CLERK  
US DISTRICT COURT, EDNC  
BY CRS DEP CLK

Eddie Ray: Kahn,  
Petitioner

Crim. Case No. 1:08-CR-271

v.

Case no. 5:12-HC-2149-FL

Jonathan C. Miner, Warden  
Respondent

JUDICIAL NOTICE OF COURT/JUDGE  
LOUISE FLANAGAN'S FAILURE TO  
CURE DEFAULT

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1. As of November 8, 2012, judge Flanagan is in default of her obligation to forfeit \$2,500.00 that is due and owing to me as a result of her refusal to perform her ministerial duty and issue the common law Writ of Habeas Corpus Ad Subjiciendum that I filed with this Court on June 22, 2012 in the time required by both Federal and North Carolina law.

2. According to Section 34 of the Judiciary Act of 1789, both judge Flanagan and this Court are subject to North Carolina state law in this matter. It states: "And be it further enacted, That the laws of the several states, except where the constitution, treaties or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply.

As the Action I have brought is a common law Action, this Court and judge Flanagan are bound by this unrepealed Act of Congress to abide by it's dictates.

3. Specifically, North Carolina Habeas Corpus law, Section 17-9, states: Writ granted without delay

Any court or judge empowered to grant the writ, to whom such application may be presented, shall grant the writ without delay, unless it appear from the application itself or from the documents annexed that the person applying or for whose benefit it is intended is, by this Chapter, prohibited from prosecuting the writ".

4. Section 17-10 states that any judge who refuses to grant the Writ is subject to a monetary penalty. It states: Penalty for refusal to grant

If any judge authorized by this Chapter to grant writs of habeas corpus refuses to grant such writ when legally applied for, every such judge shall forfeit to the party aggrieved two thousand five hundred dollars (\$2,500)". (Underlining added)

5. Note: Once a Petitioner invokes the U.S. District Court's jurisdiction and the Court accepts the filing fee, the judge assigned to act on behalf of the Court must perform the ministerial duties required of him/her when no defect exists. The duty to issue the Writ in this case was not discretionary as the judge did not allege that a defect existed.


6. The original Notice and Demand for judge Flanagan to forfeit the \$2,500.00 for her failure to abide by Sections 17-9 and 17-10 of the North Carolina Statutes was mailed to judge Flanagan on October 29, 2012. The Clerk of Court mailed back an inquiry but judge Flanagan failed to respond and rebut my demand for the forfeiture.

7. Notice: This will be Judge Flanagan's final Notice to either forfeit the \$2,500.00 that is due and owing to me or issue the Writ to the Respondent and allow him the opportunity to prove that he is not illegally incarcerating me.

8. The U.S. District Court is also on Notice that I have been harmed by the Court's acceptance of my money for the filing fee required for this Action and it's refusal or negligence to assign a judge to this Action that is authorized by Section 14 of the Judiciary Act of 1789 to issue the Writ and would abide by North Carolina law to issue it without delay. The Court is hereby put on Notice to either return my money or perform the service I contracted for. Failure to do either will subject the Court to any and all lawful remedies at my disposal, as failure to do one or the other will be deemed a tacit admission of Fraud by the Court in this matter.

9. The expiration of the time to cure the default is December 26, 2012.

Date: 12-14-12

  
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Eddie Ray: Kahn  
P.O. Box 630  
Winton, North Carolina 27986

CERTIFICATE OF SERVICE

I hereby certify that I placed in the Inmate Mail Box at the Rivers Correctional Institution in Winton, North Carolina on 12-16-12 the document entitled JUDICIAL NOTICE OF COURT/JUDGE FLANAGAN'S FAILURE TO CURE DEFAULT. It was addressed to Brick Tripp, the current Warden at Rivers Correctional Institution.



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Eddie Ray: Kahn

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P.O. Box 630

Winton, North Carolina 27986